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13 AKEENA SOLAR, INC. and  
14 ANDALAY SOLAR, INC.

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 SAN FRANCISCO DIVISION

18 AKEENA SOLAR, INC., a Delaware  
corporation; and ANDALAY SOLAR, INC., a  
19 California corporation,

20 Plaintiffs,

21 v.

22 ZEP SOLAR, INC., a California corporation;  
GLOBAL RESOURCE OPTIONS, INC. dba  
23 GROSOLAR, a Delaware corporation; and  
HIGH SUN TECHNOLOGY, INC., a  
24 California corporation,

25 Defendants.

Civil Action No. 3:09-CV-05040-JSW

**STIPULATION AND ~~[PROPOSED]~~  
ORDER TO CHANGE TIME OF  
BRIEFING SCHEDULE *RE*  
DEFENDANTS' MOTION TO STAY**

[Civil L.R. 6-2]

Honorable Jeffrey S. White  
United States District Judge

1 Plaintiffs Akeena Solar, Inc. and Andalay Solar, Inc. ("Plaintiffs") hereby stipulate  
 2 pursuant to Civil Local Rule 6-2 with Defendants Zep Solar, Inc., Global Resource Options, Inc.  
 3 dba groSolar, and High Sun Technology, Inc. ("Defendants") that that Plaintiffs' deadline to file an  
 4 opposition to Defendants' motion to stay this action be continued five days from February 11,  
 5 2010 to February 16, and that Defendants' related reply deadline be continued five days from  
 6 February 18 to February 23, but that the hearing date on Defendants' motion to stay shall remain  
 7 March 5, 2010 at 9:00 a.m.

### 8 STIPULATION

9 WHEREAS, on October 22, 2009, Plaintiffs filed this action against Defendants  
 10 charging Defendants with infringement of U.S. Patent No. 7,406,800 (the "'800 Patent") and  
 11 seeking a declaration of non-infringement of Defendants' U.S. Patent No. 7,592,537 (the "'537  
 12 Patent") (Docket No. 1.);

13 WHEREAS, on January 27, 2010, Defendants filed a request for *inter partes*  
 14 reexamination of the '800 Patent with the United States Patent and Trademark Office ("PTO") and  
 15 on that same day, filed a motion to stay this action pending reexamination of the '800 Patent,  
 16 setting the hearing date for March 5, 2010 (Declaration of Neil A. Smith, ¶ 2; Docket No. 24.);

17 WHEREAS, Plaintiffs' opposition to Defendants' motion to stay is currently due on  
 18 February 11, 2010. Defendants' motion to dismiss was scheduled to be heard on February 12,  
 19 2010, the day *after* Plaintiffs' opposition to the motion to stay would have been filed. On February  
 20 9, 2010, this Court granted Defendants' separate motion to dismiss Plaintiff's claim for a  
 21 declaratory judgment of non-infringement of the '537 Patent (Docket No. 29), ruling *sua sponte*  
 22 and in advance of the February 12, 2010 hearing date on the motion to dismiss, thereby  
 23 eliminating one of the two patents at issue in the action (Defendants' '537 Patent) and altering the  
 24 overall landscape of the action and the arguments pertaining to a potential stay of the action;

25 WHEREAS, Plaintiffs have represented they were preparing their opposition to the  
 26 motion to stay based on a belief that Defendants' '537 Patent would still be a part of the case at the  
 27

1 time of their opposition, and that they now need a brief extension of five days to be able to account  
2 for the new status of the case in their opposition to the motion to stay (Smith Declaration, ¶ 3);

3 WHEREAS, furthermore, Plaintiffs have represented that Plaintiff Akeena Solar,  
4 Inc. is a public company whose client representative is very busy preparing for an earnings call  
5 this week, and that the client representative's input is needed as Plaintiffs readjust and revamp  
6 their opposition arguments, but that the client representative is unavailable this week due to the  
7 earnings call (Smith Declaration, ¶ 4);

8 WHEREAS, furthermore, Plaintiffs have represented that their lead counsel is  
9 scheduled to be giving a speech in southern California on February 11, 2010 (the current due date  
10 of Plaintiffs' opposition to the motion to stay) and his availability and input is needed to craft a  
11 new opposition (Smith Declaration, ¶ 5);

12 WHEREAS, Monday, February 15, 2010 is a federal holiday (Presidents Day);

13 WHEREAS, the only previous modifications of time in this action were when  
14 Plaintiffs stipulated on November 11, 2009 to extend Defendants time to answer or otherwise  
15 respond to the Complaint (Docket No. 8), and when a slightly new case management schedule was  
16 ordered by the Court on December 3, 2009 after this action was reassigned from a magistrate  
17 judge to this Court (Docket No. 12); and

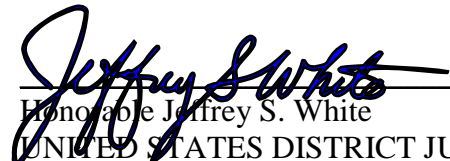
18 WHEREAS, the time extensions requested herein should not have an appreciable  
19 effect on the overall progress of this case, but will simply extend the briefing dates pertaining to  
20 Defendants' motion to stay by five days and will not affect the hearing date on the motion to stay  
21 (Smith Declaration, ¶ 6);

1 NOW, THEREFORE, IT IS HEREBY STIPULATED, by all parties to this action,  
2 through their counsel of record, that Plaintiffs' deadline to file an opposition to Defendants' motion  
3 to stay be continued from February 11, 2010 to February 16, and that Defendants' related reply  
4 deadline be continued from February 18 to February 23, but that the hearing date on Defendants'  
5 motion to stay shall remain March 5, 2010 at 9:00 a.m.

6  
7  
8 **ORDER**

9  
10 PURSUANT TO STIPULATION, IT IS SO ORDERED. However, the Court  
11 HEREBY CONTINUES the hearing to March 19, 2010 at 9:00 a.m.

12  
13 Dated: February 11, 2010

  
Honorable Jeffrey S. White  
UNITED STATES DISTRICT JUDGE

14  
15  
16  
17  
18 Dated: February 10, 2010

19 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

20  
21 By /s/ Neil A. Smith  
22 NEIL A. SMITH  
23 MICHAEL A. MOLANO  
24 NATHANIEL BRUNO

25 Attorneys for Plaintiffs  
26 AKEENA SOLAR, INC. and  
27 ANDALAY SOLAR, INC.  
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